

Senate File 445 - Introduced

SENATE FILE 445
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 241)

A BILL FOR

1 An Act relating to law enforcement officers including the
2 establishment of a law enforcement officer privilege and the
3 confidentiality of certain law enforcement officer personnel
4 records.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 22.7, subsection 5, Code 2017, is amended
2 to read as follows:

3 5. Peace officers' investigative reports, privileged
4 records or information specified in section 80G.1, and specific
5 portions of electronic mail and telephone billing records of
6 law enforcement agencies if that information is part of an
7 ongoing investigation, except where disclosure is authorized
8 elsewhere in this Code. However, the date, time, specific
9 location, and immediate facts and circumstances surrounding a
10 crime or incident shall not be kept confidential under this
11 section, except in those unusual circumstances where disclosure
12 would plainly and seriously jeopardize an investigation or pose
13 a clear and present danger to the safety of an individual.
14 Specific portions of electronic mail and telephone billing
15 records may only be kept confidential under **this subsection** if
16 the length of time prescribed for commencement of prosecution
17 or the finding of an indictment or information under the
18 statute of limitations applicable to the crime that is under
19 investigation has not expired.

20 Sec. 2. Section 22.7, subsection 11, paragraph a,
21 unnumbered paragraph 1, Code 2017, is amended to read as
22 follows:

23 Personal information in confidential personnel records
24 of government bodies relating to identified or identifiable
25 individuals who are officials, officers, or employees of the
26 government bodies. However, the following information relating
27 to such individuals contained in personnel records shall be
28 public records, except as otherwise provided in section 80G.3:

29 Sec. 3. NEW SECTION. 80G.1 Definitions.

30 As used in this section except as the context otherwise
31 requires:

32 1. "*Compensation*" means the same as defined in section 22.7,
33 subsection 11.

34 2. "*Law enforcement officer*" means the same as "*peace*
35 *officer*" as defined in section 801.4.

1 3. *"Undercover law enforcement officer"* means a law
2 enforcement officer who is actively involved with and assigned
3 to investigate alleged violations of state or federal law and
4 whose identity as a law enforcement officer is concealed while
5 conducting an investigation.

6 Sec. 4. NEW SECTION. **80G.2 Law enforcement officer —**
7 **privilege — confidentiality.**

8 1. *a.* A law enforcement officer shall not be examined or
9 be required to give evidence in any criminal proceeding that
10 requires the disclosure of any records or information relating
11 to any of the following:

12 (1) Identification documents or other documents necessary
13 to conduct a lawful undercover criminal investigation.

14 (2) Personal identifying information about the law
15 enforcement officer or immediate family member of the law
16 enforcement officer, or other information unrelated to the law
17 enforcement officer's professional duties which could be used
18 to threaten, harm, or intimidate the law enforcement officer
19 or immediate family member of the law enforcement officer,
20 or other information that could reasonably be construed to
21 constitute an unwarranted invasion of privacy of the law
22 enforcement officer or immediate family member of the law
23 enforcement officer. Personal information that is knowingly
24 and voluntarily disclosed by the law enforcement officer or
25 immediate family member of the law enforcement officer may be
26 redisseminated.

27 *b.* A law enforcement officer who is called to testify shall
28 not disclose information that is subject to nondisclosure as a
29 result of a court order, statute, contract, or a condition or
30 requirement of a grant.

31 2. In determining whether nondisclosure of confidential
32 or privileged information about a law enforcement officer
33 may affect a defendant's right to present a defense, the
34 court shall make findings on the record regarding the impact
35 of disclosure on the personal safety of the law enforcement

1 officer or immediate family member of the law enforcement
2 officer if the evidence is disclosed, the probative value
3 of the confidential or privileged information about the
4 law enforcement officer, the impact of disclosure on public
5 safety, the potential for partial or limited disclosure of the
6 privileged information, and the defendant's constitutional
7 right to present a defense. Any privileged information that is
8 admitted for purposes of a pretrial hearing or a preliminary
9 admissibility determination shall remain confidential.

10 Sec. 5. NEW SECTION. 80G.3 Personnel information —
11 undercover law enforcement officer — confidentiality.

12 The name, photograph, compensation and benefit records, time
13 records, residential address, or any other personal identifying
14 information of an undercover law enforcement officer shall be
15 confidential while the undercover law enforcement officer is
16 actively involved with or assigned to investigate violations
17 of state or federal law.

18 EXPLANATION

19 The inclusion of this explanation does not constitute agreement with
20 the explanation's substance by the members of the general assembly.

21 This bill relates to law enforcement officers including the
22 establishment of a law enforcement officer privilege and the
23 confidentiality of certain law enforcement officer personnel
24 records.

25 The bill defines a "law enforcement officer" to mean the same
26 as peace officer as defined in Code section 801.4.

27 Under the bill, a law enforcement officer shall not be
28 examined or be required to give evidence in any criminal
29 proceeding that requires the disclosure of any records or
30 information relating to any of the following: identification
31 documents necessary to conduct a lawful undercover criminal
32 investigation; or personal identifying information about the
33 law enforcement officer or immediate family member of the law
34 enforcement officer, or other information unrelated to the law
35 enforcement officer's professional duties which could be used

1 to threaten, harm, or intimidate the law enforcement officer
2 or immediate family member of the law enforcement officer,
3 or other information that could reasonably be construed to
4 constitute an unwarranted invasion of privacy of the law
5 enforcement officer or immediate family member of the law
6 enforcement officer. Personal information that is knowingly
7 and voluntarily disclosed by the law enforcement officer or
8 immediate family member of the law enforcement officer may be
9 redisseminated under the bill. The bill also provides that
10 a law enforcement officer who is called to testify shall not
11 disclose information that is subject to nondisclosure as a
12 result of a court order, statute, contract, or a condition or
13 requirement of a grant.

14 The bill provides that in determining whether nondisclosure
15 of confidential or privileged information about a law
16 enforcement officer may affect a defendant's right to present a
17 defense, the court shall make findings on the record regarding
18 the impact of disclosure on the personal safety of the law
19 enforcement officer or immediate family member of the law
20 enforcement officer if the evidence is disclosed, the probative
21 value of the confidential or privileged information about the
22 law enforcement officer, the impact of disclosure on public
23 safety, the potential for partial or limited disclosure of the
24 privileged information, and the defendant's constitutional
25 right to present a defense. Any privileged information that is
26 admitted for purposes of a pretrial hearing or a preliminary
27 admissibility determination shall remain confidential under the
28 bill.

29 The bill defines "undercover law enforcement officer" to
30 mean a law enforcement officer who is actively involved with
31 and assigned to investigate alleged violations of state or
32 federal law and whose identity as a law enforcement officer is
33 concealed while conducting an investigation.

34 The bill provides that the name, photograph, compensation
35 and benefit records, time records, residential address, or any

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1 other personal identifying information of an undercover law
2 enforcement officer shall be confidential while the undercover
3 law enforcement officer is actively involved with or assigned
4 to investigate violations of state or federal law.